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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

SECURITY COUNCIL
Fifty-fourth year

Letter dated 12 October 1999 from the Permanent Representative of Finland to the United Nations addressed to the Secretary-General

I have the honour to draw you attention to the statement by the Presidency of the Council of the European Union on the forced removals of civilians in Burundi, issued on 8 October 1999 (see annex).

I should be obliged if you would have the text of this letter and its annex distributed as a document of the General Assembly, under agenda item 116 (c), and of the Security Council.

(Signed) Marjatta RASI
Permanent Representative of Finland
to the United Nations

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Annex

[Original: English and French]

Statement on the forced removals of civilians in Burundi issued by the Presidency of the Council of the European Union on 8 October 1999

The European Union strongly deplores the renewed outbreak of violence and internal conflict over the past few weeks in Burundi, mainly in the southern part of the country and around the capital, Bujumbura.

The European Union is disturbed by the renewed rebel attacks, the first victim of which has been the civilian population.

It is also particularly concerned about the recent forced removals by the Burundi army of some 260,000 civilians in the countryside round Bujumbura.

The European Union deplores the violation of human rights, the loss of human life and the destruction of property that have been the hallmark of this operation. It regrets the anguish and suffering to which the civilian population was subjected during their forced transfer to the assembly areas.

The European Union calls upon the Government of Burundi to call a halt to the policy of forced removals and to allow the people to return to their property as quickly as possible. In the meantime, it urges that Government to provide the people with improved sanitary and temporary accommodation conditions.

It notes that the Government of Burundi has assured United Nations representatives and international non-governmental organizations free access to all of the camps concerned to enable them to provide humanitarian assistance. It asks the Burundi authorities to continue to afford the Office of the High Commissioner for Human Rights in Burundi and its observers the same access.

The European Union hopes that all Burundi rebel movements will join the Arusha peace process and that all the parties to the Burundi conflict will choose the path of negotiation rather than that of violence and conflict.

The Central and Eastern European countries associated with the European Union, the associated countries Cyprus and Malta and the European Free Trade Association countries members of the European Economic Area align themselves with this statement.

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Fifty-fourth session
Agenda item 116 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in Iraq

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report prepared by Max van der Stoel, the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, in accordance with Commission on Human Rights resolution 1999/14 of 23 April 1999 and Economic and Social Council decision 1999/229 of 27 July 1999.

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I. Introduction

1. The present interim report is submitted pursuant to paragraph 4 (a) of Commission on Human Rights resolution 1999/14 of 23 April 1999.

2. The Special Rapporteur wishes to recall that since his visit to Iraq in January 1992, and despite the request, renewed in resolutions of the General Assembly and the Commission on Human Rights, that the Government of Iraq cooperate with human rights mechanisms, in particular by receiving a return visit of the Special Rapporteur to Iraq and allowing the stationing of human rights monitors throughout the country, the Special Rapporteur has not yet received an invitation for a return visit and the Government of Iraq has not altered its repeated refusal to allow the stationing of human rights monitors in the country. The Special Rapporteur regrets that the Government of Iraq is still unwilling to establish a constructive dialogue with the human rights mechanisms established by the United Nations for the effective promotion and protection of human rights.

3. Notwithstanding the persistent absence of cooperation on the part of the Government of Iraq, the Special Rapporteur continues to receive assistance and information from various sources. He continues also to receive documented reports describing the situation in Iraq, particularly in relation to the matters over which the General Assembly and the Commission on Human Rights have expressed concern.

4. The present interim report is based upon information received by the Special Rapporteur up until 20 September 1999 and is to be read in conjunction with the latest report of the Special Rapporteur to the Commission on Human Rights (E/CN.4/1999/37).

II. Civil and political rights

5. Allegations received by the Special Rapporteur concern serious and widespread violations of almost all civil rights. In particular, there are persistent allegations of: violations of the right to life; arbitrary arrest; detention; torture and other cruel, inhuman or degrading treatment or punishment; disappearances; and violations of the rights to due process of law and freedom of movement. According to reports and testimonies received, these allegations relate especially to three governmental tactics: (a) indiscriminate bombardment of civilian settlements and arbitrary killings; (b) arbitrary arrest and detention of suspected traitors and criminals; and (c) forced displacement.

A. Summary, arbitrary and extrajudicial executions

6. During the period under review, the Special Rapporteur continued to receive allegations of summary, arbitrary and extrajudicial executions. Information obtained by the Special Rapporteur indicates that a number of people from the city of Basra were summarily executed by firing squad in late March 1999 and buried in a mass grave in Burjesiyya district near the town of Zubair, about 20 kilometres south-east of Basra. The victims were reportedly arrested on suspicion of participating in demonstrations that took place in Basra on the night of 17 March 1999. They were held at the detention centre of the Security Directorate of Basra Governorate in Al-Ashar district and subjected to torture and ill-treatment for many days. The first group of detainees were transported in buses to the Burjessiya district where a site had been hastily prepared. The executions were reportedly carried out by members of the security forces under the direct supervision of the highest State authorities, namely Ali Hassan Al-Majid, then Governor of the southern region and a cousin of President Saddam Hussein, Ahmed Ibrahim Hamash, Governor of Basra, and Abdul Baqi Al-Saadoon, a prominent member of the Ba'ath Party. The Special Rapporteur is in possession of a list of the names of 21 of those who were allegedly executed. It is further reported that, as a policy of collective punishment, the authorities have resorted to house demolition and detention of family members.

7. The Special Rapporteur has already denounced the policy of mass execution of prisoners carried out by the Iraqi authorities in Abu Ghraib and Radwaniyah prisons in several previous reports. Nevertheless, the Special Rapporteur has continued to receive information pertaining to such cases.

8. On 14 April 1999, a number of detainees, charged with acts of treason or inflicting damage on the State, were reportedly executed in Abu Ghraib. The Special Rapporteur has in his possession a list of the names of 56 victims and the articles of the Iraqi Penal Code under which they are said to have been sentenced. The list reveals that 16 of the victims are residents of Baghdad (mainly from the Thawra and Shu'lah districts). The rest are from the governorates of Babel, Kerbala, Najaf, Qadisiya, Waset, Mthanna, Misan, Thi Qar and Basra.

9. On 10 August 1999, 26 other prisoners were reportedly executed in Abu Ghraib prison. The Special Rapporteur also has in his possession a complete list of the names of the victims. The persons concerned were sentenced to death on charges of killing members of the security and police forces

in the governorates of Babel, Basra and Qadisiyyah. According to the information received, the bodies of the victims were transferred, on the night of 10 August, to Al-Kindi hospital in Baghdad and were then removed to an unknown place for burial.

B. Disappearances

10. Iraq remains the country with the highest number of disappearances reported to the Working Group on enforced and involuntary disappearances established by the Commission on Human Rights.

11. The great majority of the 16,496 cases reported to the Working Group concern persons of the Kurdish ethnic group who allegedly disappeared in 1988 in the course of the so-called Anfal operations, when the Government of Iraq implemented a programme of destruction of villages and towns throughout Iraqi Kurdistan. A significant number of other cases concern Shi'a Muslims who are reported to have disappeared in the late 1970s and early 1980s in the course of the expulsion of their families to the Islamic Republic of Iran on the allegation that they were of Persian ancestry. Other cases occurred following the March 1991 uprising by Arab Shi'a Muslims in the south and by Kurds in the north. Earlier cases took place in 1983, when Iraqi forces arrested a large number of Kurds from the Barzani clan, near Arbil. Some 30 cases, which reportedly occurred in 1996, concern members of the Yazidi community who were allegedly arrested during a wave of mass arrests in Mosul by members of the security forces. Victims of enforced or involuntary disappearances in Iraq include suspected political opponents, those arrested because of family ties to a political opponent, those held hostage in order to force relatives sought by the authorities for their political opposition to surrender and those arrested because of their ethnic origin.

12. Information concerning developments in Iraq having an influence on the phenomenon of disappearances and the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance were received from non-governmental organizations. It is said that disappearances continue to occur in Iraq, especially among members of minority groups. The Government is said to have failed to address conditions that still allow such disappearances to take place. Detainees reportedly have no access to their families or lawyers; trials, when there are any, are reportedly conducted in secret. Particular concern was expressed at the vast number of disappearances that remain unresolved and the total impunity with which the perpetrators continue to act, in violation of articles 3 and 14 of the Declaration. No redress is reportedly available to the victims or their families from the Government, in violation of article 19 of the Declaration.

13. In its latest report to the Commission on Human Rights, the Working Group concluded that the efforts of the Government of Iraq to investigate the over 16,000 outstanding cases of disappearance and to cooperate with the Working Group are totally inadequate. Under the Declaration, the Government is under an obligation to take effective legislative, administrative, judicial or other measures to prevent, terminate and investigate all acts of enforced disappearance.

14. With respect to the persons missing as a result of the Iraqi occupation of Kuwait, the Rapporteur notes that the Government of Iraq continues to refuse to attend the scheduled meetings of the Tripartite Commission or its Technical Subcommittee on Military and Civilian Missing Prisoners of War and Mortal Remains, established to respond to this specific humanitarian problem.

C. Destruction of civilian settlements

15. Reports of the destruction of civilian settlements have been received by the Special Rapporteur on an intermittent basis since 1991. The Special Rapporteur has received lists of allegedly destroyed villages and houses, located in many parts of the vast marsh area (now mainly drained), as well as in Baghdad.

16. It was reported that, in late March 1999, Armoured Division Six carried out operations surrounding and bombarding a number of residential areas of some of the tribes living in the Governorate of Basra. Such operations reportedly took place in the areas of Al-Ghameigh, Bait Wafi and Bait Sayed Noor.

17. Since the beginning of 1999, the Special Rapporteur has regularly received reports indicating that the Government of Iraq has been destroying the houses of opponents with bulldozers, operating during the daytime in full view of the occupants. For example, it was reported that 52 houses had been demolished in the city of Basra, 9 in the quarter of Al-Jamhuriyah, 5 in the city of Al-Zubier, 7 in Al-Karmah, 12 in Abo Al-Khaseib and 5 in Al-Tanumah.

18. In another example, in the city of Baghdad, reports indicate that the authorities demolished, with bulldozers, six houses in residential sectors 38, 45 and 46 of Thawra district, in the early hours of 20 July 1999. This act was reportedly carried out after the detention of their occupants, including children, women and elderly people, who were

then transferred to Radhwaniyya prison. The operation was carried out in total darkness as the electricity supply to the whole district was reportedly cut off from midnight until 3 a.m. on 20 July 1999.

19. The Special Rapporteur has received a list of names of hundreds of people so affected, indicating their addresses, the date of destruction of their homes and the action taken against the families (arrests, executions, expulsions etc.).

III. The right to food and health care

A. The current situation

20. On 19 August 1999, the Secretary-General issued a report on the implementation of the humanitarian programme in Iraq (S/1999/896 and Corr.1). The report, submitted to the Security Council pursuant to paragraph 6 of resolution 1242 (1999) of 21 May 1999, provides information through 31 July 1999 on the distribution of humanitarian supplies throughout Iraq, including the implementation of the United Nations Inter-Agency Humanitarian Programme in the three northern governorates of Dahuk, Arbil and Sulaymaniyah. It also describes developments in the implementation of the programme since the period covered by the previous report, submitted to the Council on 18 May 1999 (S/1999/573 and Corr.1 and 2).

21. The Special Rapporteur notes that, as at 31 July, foodstuffs and food-handling equipment valued at $3,856 million had arrived in Iraq since the commencement of the programme, of which $3,313 million (85.9 per cent) had been distributed to end-users in the centre and south of the country. The food basket continued to fall short of the targeted amount of 2,150 kilocalories per person per day. On average, the food basket offered 93 per cent of the targeted caloric value and 85 per cent of the targeted protein value during the reporting period. During the same period, 10 food basket commodities were distributed in full. Protein sources such as pulses and dairy products were the commodities in shortest supply and were distributed below the average distribution plan ration. This was, in part, the result of the late arrival of commodities and under-ordering by the Ministry of Trade. During the reporting period, 12 per cent of the contents of the food basket came from government loans.

22. According to the same report, while applications submitted for the food sector had generally been insufficient to meet the adjusted requirements for the food basket under phases IV and V, sufficient applications for pulses have been received under phase IV and, as yet, none have been received under phase V, with the exception of transfers from phase IV. In addition, insufficient applications for adult milk and cheese have been received for phases IV and V. During phase V, only 57 per cent of the needs for pulses and 54 per cent of the needs for adult milk and cheese were covered; coverage for other food basket items was between 93 per cent and 116 per cent for phase V. As a result, these items remained either absent from or reduced in the monthly food basket throughout the reporting period.

23. In the health sector according to the World Health Organization (WHO), as at 31 July, medicines, medical supplies and equipment valued at $664.6 million procured under the bulk purchase arrangement had arrived in Iraq since the beginning of the programme, of which supplies worth $422.8 million (63.6 per cent) had been distributed to end-users country-wide (S/1999/896, para. 36). During the reporting period, a total of $58.7 million worth of supplies arrived and $74.1 million worth were distributed. The value of items remaining in warehouses as at 31 July amounted to $241.8 million. The focus of activity in this sector has been to provide a broad range of medicines and medical and dental equipment and to support their distribution. The Government of Iraq suggested in the phase VI distribution plan that the health allocation should be split equally between medicines and medical equipment. This 50:50 ratio was noted by the Secretary-General as a welcome change from the 60:40 ratio suggested in the distribution plan for phase V, in particular since the Ministry of Health had earlier favoured medical equipment at the expense of essential pharmaceuticals.

24. The World Health Organization initiated a comprehensive analysis of stocks at the Kimadia warehouses in Baghdad starting in May 1999. As at 31 July, a total of $386.9 million worth of medicines had arrived in the country. Of that amount, $265.8 million worth of drugs had been distributed, representing a total distribution rate of 68.8 per cent country-wide. Items valued at $103.6 million (26.7 per cent) represented buffer and working stock. The analysis of medical supplies and equipment stocks revealed that items worth $148 million, or 65 per cent of the total value of $227.9 million, had been distributed. Fifteen per cent of the remaining stock represented items undergoing quality testing, having failed quality testing or awaiting the arrival of complementary accessories. Initial distribution delays caused by transportation difficulties had been partially solved. Regarding stocks for spare parts, $832,708 of a total amount of $1.5 million, or 52 per cent, had been distributed. The low rate of distribution of spare parts was attributed to

their being stored centrally and to the fact that they were distributed only on a need and demand basis.

25. The Special Rapporteur notes from the same report that a qualitative assessment of items procured under Security Council resolution 986 (1995), of 14 April 1995, available at health centres showed that most of those facilities had received 25 to 33 per cent of the 70 items (including emergency drugs) recommended in the national list for primary health care, compared to 10 per cent one year previously. Most of the remaining items were available from other sources. Some of the items had not yet been delivered and arrivals had been erratic, thus making it impossible to ensure that needs would be met at any given time. At the hospital level, in-patients were provided with a full course of treatment where drugs were available. However, out-patients in hospitals and at health centres regularly received only three days of treatment, even for drugs that required a minimum of four to five days of treatment. Patients in public clinics and health insurance clinics were provided with three days of treatment. There was a severe shortage of a range of antibiotics in almost all the health facilities. Also in short supply in nearly all the hospitals were narcotic analgesics, corticosteroid injections and medical consumables. There had also been an acute shortage of anti-tuberculosis drugs at the end of May, forcing a break in treatment for most tuberculosis patients. Through its regular programme, WHO had procured substantial quantities of those drugs, allowing some patients to continue treatment. Drugs for chronic illnesses were priority items under all phases. There is a defined list of items covering 12 therapeutic categories. An analysis of stocks of those drugs available at the Kimadia warehouse as at 30 June, considering the past monthly consumption, indicated that most drugs for chronic diseases would be adequate for at least the next three months.

26. On 12 August 1999, the United Nations Children's Fund (UNICEF) issued the results of first surveys of child and maternal mortality in Iraq conducted since 1991. The surveys also cover the autonomous northern region of Iraq. They were carried out by UNICEF between February and May 1999, in cooperation with the Government of Iraq, in the southern and central parts of Iraq, and in the autonomous northern region of the country, with the cooperation of the local authorities. Technical support for both surveys was provided by WHO.

27. The surveys reveal that in the south and centre of Iraq, home to 85 per cent of the country's population, the under-five mortality rate more than doubled from 56 deaths per 1,000 live births in the period 1984-1989 to 131 deaths per 1,000 live births in the period 1994-1999. Likewise, infant mortality, defined as the death of children in their first year, increased from 47 per 1,000 live births to 108 per 1,000 live births within the same time-frame. The surveys indicate a maternal mortality ratio in the south and centre of the country of 294 deaths per 100,000 live births over the 10-year period 1989-1999. In the three governorates of the autonomous northern region, the under-five mortality rate rose from 80 deaths per 1,000 live births in the period 1984-1989 to 90 deaths per 1,000 live births during the years 1989-1994. The under-five mortality rate fell to 72 deaths per 1,000 live births between 1994 and 1999. Infant mortality rates followed a similar pattern.

28. Under phase IV of the programme (30 May to 23 November 1998), $15 million was allocated for the targeted feeding programme for children under five and for lactating mothers. Despite repeated requests made by the United Nations at different levels, as at 31 July only one application, for high-protein biscuits, at a value of just under $1.7 million, had been received by the Office of the Iraq Programme and approved by the Security Council. No application for therapeutic milk has been submitted to the Office of the Iraq Programme. According to UNICEF, high-protein biscuits should begin arriving in Iraq within two months. On 27 July, the Government of Iraq stated, and it has been confirmed by UNICEF, that it had contracted phase IV targeted nutrition supplies at the quantities specified in the distribution plan for phase VI, at a cost of $9,481,000, and had requested the Office of the Iraq Programme to allocate the remainder ($4.6 million) of the $15 million set aside for the targeted nutrition programme for new contracts in water and sanitation. The allocations for the targeted feeding programme under phases V and VI are, respectively, $9,481,000 and $6,160,000.

29. The Special Rapporteur notes that if prices remain at the current level of about $18 per barrel, the estimated value of approved contracts for the export of oil will be about $6.555 billion for the current 180-day period, which ends on 21 November. After deductions pursuant to paragraph 8 of Security Council resolution 986 (1995) and deductions for the purchase of oil spare parts and equipment ($300 million), as well as pipeline fees ($255 million), the funds available for the implementation of the humanitarian programme are expected to be $3.86 billion.

B. Observations

30. Since the Special Rapporteur took up his mandate in 1991, he has constantly reported on the deteriorating situation in the field of economic, social and cultural rights. Since 1992, the Special Rapporteur has described how

millions of innocent people living in Iraq are suffering. Their daily life has been significantly disrupted with respect to the distribution and quality of food, pharmaceuticals and sanitation supplies, as well as the lack of clean drinking water. All these elements have severely interfered with the functioning of basic health and education systems and have undermined the right to work. In addition, the Iraqis have had to face other consequences, such as the reinforcement of the power of the regime, the emergence of a vast black-market generating huge windfall profits for the privileged élites that manage it (including the involvement, according to consistent reports, of Udday Hussein, the President's son), as well as the enhancement of the control of the security forces over the population at large, and the restriction of opportunities for Iraqi citizens to seek asylum or to manifest political opposition.

31. After the imposition of international sanctions in August 1990, the Government of Iraq decided not to take advantage of Security Council resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991, adopted by the international community in response to the specific needs of the Iraqi people. These Security Council resolutions allowed Iraq to sell $1.6 billion worth of oil every six months, with the aim of importing humanitarian supplies. Instead, the Government of Iraq decided to rely only on domestic production to meet the humanitarian needs of its people, preferring to let innocent people suffer while the Government manoeuvred to get sanctions lifted. Indeed, had the Government of Iraq not waited five years to decide to accept the "oil-for-food" agreement proposed as early as 1991 in the above-mentioned resolutions to meet the humanitarian needs of the population, millions of innocent people would have avoided serious and prolonged suffering. For example, in its surveys, UNICEF reported that in the heavily populated southern and central parts of the country, children under five are dying at more than twice the rate they were ten years ago (see paras. 26-28 above).

32. The Special Rapporteur notes that the Government of Iraq is still not complying with its obligations under articles 2, 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, insofar as it has not taken appropriate steps "to the maximum of its available resources", including "through international assistance and cooperation", with a view to achieving the full realization of the right to an adequate standard of living, including adequate food, clothing, housing and good health, and to the continuous improvement of living conditions.

33. While the Government of Iraq has failed to use its existing resources well or to cooperate fully to take advantage of other available resources, the Government of Iraq has used some resources to enrich itself. Specifically, the Special Rapporteur has received an official communication alleging that, on 11 August 1999, a Kuwaiti coastguard arrested a wooden boat inside Kuwaiti territorial waters coming from Iraq and flying the flag of the United Arab Emirates. The captain of the boat had an export certificate from the port of Basra and was found to be carrying cotton seed, 75 cartons of infant powder and 25 cartons of infant feeding bottles. The captain of the arrested boat confessed that he had previously committed six similar violations.

34. Furthermore, the Special Rapporteur notes with deep concern that the Government of Iraq has still not taken full advantage of the food and health care resources available through the oil-for-food arrangement. For example, as already indicated, the Government of Iraq has been ignoring the recommendations of the Office of the Iraq Programme and UNICEF to give priority to child nutrition and maternal health programmes. In his statement to the Security Council on 26 August 1999, the Executive Director of the Iraq Programme expressed his regret at the very long time it had taken the Government of Iraq to conclude contracts for the targeted nutrition programme under phase IV, which had ended nine months before, in November 1998. The Office of the Iraq Programme was expecting to receive the third and last contract application during the second week of August, bringing the total value of contracts for therapeutic milk (1,500 tons) and high protein biscuits (4,800 tons) to $9,481,000. An equal amount has been allocated under the distribution plan for phase V; the allocation for the targeted nutritional feeding programme under phase VI is about $6.2 million.

35. In comparison, in the three northern governorates where the United Nations implements the programme on behalf of the Government, UNICEF and the World Food Programme have run targeted nutrition and supplementary feeding programmes since the start of the programme under Security Council resolution 986 (1995). Allocations for targeted nutrition have amounted to $7.64 million and for supplementary feeding to $29.4 million, totalling $36.88 million over the six phases for a population of about three and half million people. At the same time, the UNICEF report shows a significant decline in child mortality in the north.

36. The Government of Iraq has also been slow to distribute medicines and medical supplies from its warehouses. At a press conference in May 1999, the Executive Director of the Office of the Iraq Programme stated that: "It is just over two years since the first medical supplies arrived in Iraq under the oil-for-food programme.

Our figures show that about $570 million worth of medicines and medical supplies have arrived in Iraq. Our major concern is that only 48 per cent of these supplies have been distributed to clinics, hospitals and pharmacies. The Government's warehouses are literally overflowing." Clearly, there is an urgent need to convince the Government of Iraq of its obligation to ensure a much more rapid distribution of these vital supplies.

37. Finally, the Special Rapporteur notes that, in contrast to the beginning of the year, Iraq's revenues from oil exports have risen sharply in recent months owing to higher world oil prices. But the Government has actually been spending less on nutritionally enhanced food products that would benefit women and children. At current oil price levels, the funds available for the implementation of the humanitarian programme are expected to be $3.86 billion in the six-month period ending in November 1999. The Government of Iraq has so far budgeted only $6.6 million in nutritional supplements for mothers and small children, down from $15 million when the programme began in 1996.

VI. Conclusions and recommendations

38. Since the situation of human rights in Iraq is worsening and the repression of civil and political rights continues unabated, the Special Rapporteur feels bound to renew the conclusions and recommendations he made in his previous reports to the Commission on Human Rights and the General Assembly.

39. At the beginning of 1992, the Special Rapporteur concluded that the gravity of the human rights situation in Iraq had few comparisons in the world since the end of the Second World War. The Special Rapporteur regrets that since then he has had no cause to change his view. The prevailing regime in Iraq has effectively eliminated the civil rights to life, liberty and physical integrity and the freedoms of thought, expression, association and assembly; rights to political participation have been flouted, while all available resources have not been used to ensure the enjoyment of economic, social and cultural rights. Indeed, the Special Rapporteur has concluded that the political-legal order in Iraq is not compatible with respect for human rights and, rather, entails systematic and systemic violations throughout the country, affecting virtually the whole population. In particular: President Saddam Hussein exercises executive and legislative power, with judges and magistrates essentially answerable to him; the armed forces, the police and Ba'ath Party agents are in the service of the President; the courts are subject to the executive branch; political parties are banned, except for the Ba'ath Party, which is identified with the State; there is no freedom of speech or action since the mere suggestion that someone is not a supporter of the President carries the prospect of the death penalty; and there is no freedom of information on radio or television, the most popular public media.

40. The established State structure, based on an omnipresent State party, the absence of a short-, medium- or long-term democratic prospect, and the fact that there is no institution capable of controlling the abusive exercise of power all lead the Special Rapporteur to conclude that the Iraqi people do not enjoy, and will not enjoy in the foreseeable future, respect for their human rights.

41. The Special Rapporteur observes that the continuing repression by the Government of Iraq of the civilian population of Iraq is in violation of paragraph 2 of Security Council resolution 688 (1991), of 5 April 1991, which mandated "that Iraq, as a contribution to removing the threat to international peace and security in the region, immediately end this repression". In addition, Iraq's failure to resolve the outstanding cases of the over 600 persons of Kuwaiti and third-country nationality who disappeared during or subsequent to Iraq's illegal occupation of Kuwait and who are still missing is in violation of Security Council resolution 687 (1991), of 3 April 1991.

42. With regard to the latter subject of concern, the Special Rapporteur recommends the following:

(a) The Government of Iraq should immediately release all those who are being held. It should reveal the names of all those who have died in its custody, in order to relieve the suffering of the relatives of the disappeared. In the case of those who have died, the Government of Iraq should produce evidence of their deaths, together with the precise whereabouts of their grave sites;

(b) The Government of Iraq should review, seriously and immediately, all the outstanding case files of the missing persons, in view of the fact that more than six years have elapsed since the submission of these files.

43. Today, almost eight years after the establishment of his mandate, the Special Rapporteur notes that almost none of the recommendations contained in his earlier reports have been adopted by the Government of Iraq. The Government has also failed to cooperate duly with the Special Rapporteur during the past seven years by not replying to any of the communications he has sent to the Government, by refusing to allow him to visit the country since 1992 and by refusing to accept the stationing of United Nations human rights monitors in Iraq.

44. Without firm determination on the part of the international community to respond substantially and meaningfully to the extremely serious violations referred to in the present report, the tradition of impunity which prevails in Iraq will almost certainly continue. Its unfortunate consequences will be, *inter alia*, to encourage the continuance of human rights violations, to dash hopes for the re-establishment of the rule of law, including accountable government, and to jeopardize efforts to establish peace and stability in the region.

45. Considering the gravity and the complexity of the situation and on the basis of the foregoing, the Special Rapporteur reiterates all the conclusions and recommendations formulated in his previous reports submitted to the General Assembly and the Commission on Human Rights. In particular, the Special Rapporteur reiterates the need to implement his early proposal that a human rights monitoring mechanism comprised of United Nations staff be established throughout Iraq, thus providing a continuous flow of first-hand, impartial and verifiable information on the human rights situation. This mechanism is fully described in his 1992 report to the General Assembly (A/47/367 and Add.1). The Special Rapporteur emphasizes that implementation of such a mechanism would remove any doubt concerning the serious allegations received in relation to matters under the strict control of the Government of Iraq (and generally inaccessible to anyone else), such as the situation in southern Iraq. In this connection, it is to be noted that the United Nations has consistently supported implementation of a human rights monitoring mechanism in Iraq, notwithstanding the persistent refusal on the part of the Government of Iraq to accept United Nations human rights monitoring. In the absence of such a monitoring mechanism, and in the full knowledge of established past and current serious violations, including the prevailing repressive political-legal order in Iraq, the Special Rapporteur can only conclude, with regard to the allegations received and the integrity of the conclusions drawn therefrom, that the presumption of veracity must lie with the allegations rather than with the Government of Iraq. In any event, the Special Rapporteur observes no improvement in the situation of human rights in Iraq. In sum, the prevailing regime of systematic human rights violations is contrary to Iraq's many international obligations and, as determined by the Security Council in its resolution 688 (1991), remains a threat to peace and security in the region.